

### REMARKS

Claims 1-24 are pending in the present application. Reconsideration of the claims is respectfully requested.

**I. 35 U.S.C. §103, Obviousness, Claims 1-3, 5, 7-10, 12, 14-18, 20, and 22-24**

The Examiner has rejected claims 1-3, 5, 7-10, 12, 14-18, 20, and 22-24 under 35 U.S.C. Section 102 as being unpatentable over *Gu* (U.S. Patent No. 6,744,780) in view of *Chu et al.* (U.S. Patent No. 6,718,376). This rejection is respectfully traversed.

Determining the period for sending the management information request based on an operating status of the system, as recited in independent claims 1, 9, and 16, is not taught or suggested in *Gu* or *Chu*.

*Gu* teaches determining any appropriate adjustment of the polling interval based on the total number of status messages detected per group of successful polls of a network element, but not determining the period for sending the management information request based on an operating status of the system. In the introductory sentence for the "SUMMARY OF THE INVENTION," *Gu* is explicit in stating that it provides "a dynamically adaptive polling interval that is commensurate with the traffic (e.g., status messages) generated by remote network elements." (*Gu*, column 1, lines 53-59). Thus, a large number of status messages cause *Gu* to adjust the polling interval to poll less frequently, whereas a small number of status messages cause *Gu* to adjust the polling interval to poll more frequently. Although *Gu* teaches a dynamically adaptive polling interval based on the frequency of system traffic, it does not teach determining the period for sending the management information request based on an operating status of the system.

In contrast, the present invention claims "the period for sending the management information request is determined based on an operating status of the system," such that the information request period is adjusted based on the operating status of the system, not the number of status messages. The Specification does not explicitly define the operating status of the system, but does offer examples. One example is "operating within acceptable parameters. For example, if the number of times the thin server failed to provide the requested access exceeds a predetermined maximum acceptable threshold,

the metaserver may determine that the thin server is not operating within normal parameters.” (Specification, page 10, lines 14-19). Another example is offered in the Specification for “operating within normal parameters. However, if some of the values are radically different from L/N [the number of inbound requests per second for a server appliance], then the metaserver has detected an out-of-specification condition.” (Specification, page 9, line 31, to page 10, line 2). Therefore, evaluation of the operating status for the present system is not based upon the number of status messages, as it is in *Gu*, but whether a parameter in the operational history received in response to a management information request is within normal operating parameters. In the present invention, the period for sending the management information requests may be increased based on the operating status of the system, despite the fact that the traffic frequency is unchanged, or even more frequent. Conversely, the operational status may indicate that the present invention decrease the period for sending management information requests even though the traffic frequency is less frequent, a result that is in direct opposition to the central premise of *Gu*.

*Chu* also does not teach or suggest determining the period for sending the management information request based on an operating status of the system, as recited in the independent claims of the present invention. *Chu* does not even teach management information requests, much less management information requests that are sent periodically based upon an operating status of the system. *Chu* teaches that the “system administrator will determine how many unsuccessful automatic restart processes will be undertaken before the control adapter 30 sends an event to the NCC [network control console] 12 that notifies the system administrator that the attempt to restart a service was unsuccessful.” (*Chu*, column 6, lines 19-24). In *Chu*, because the control adapters in the network nodes send unsolicited management information to the host located at a network operation center, no periodic management information requests are sent.

Claims 2-8, 10-15 and 17-24 are dependent claims depending on independent claims 1, 9, and 16, respectively. Applicant has already demonstrated claims 1, 9, and 16 to be in condition for allowance. Applicant respectfully submits that claims 2-8, 10-15 and 17-24 are also allowable, at least by virtue of their dependency on allowable claims.

Thus, the rejection of claims 1-3, 5, 7-10, 12, 14-18, 20, and 22-24 under 35 U.S.C. §103(a) has been overcome.

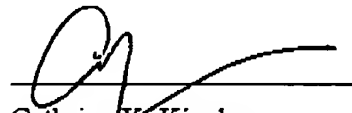
**II. Conclusion**

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,



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